



Intellectual Property Rights Enforcement

How Businesses Can Partner with CBP to Protect their Rights



U.S. Customs and
Border Protection



U.S. Customs and Border Protection

OUR MISSION

We are the guardians of our Nation's borders.

We are America's frontline.

We safeguard the American homeland at and beyond our borders.

We protect the American public against terrorists and the instruments of terror.

We steadfastly enforce the laws of the United States while fostering our Nation's economic security through lawful international trade and travel.

We serve the American public with vigilance, integrity, and professionalism.



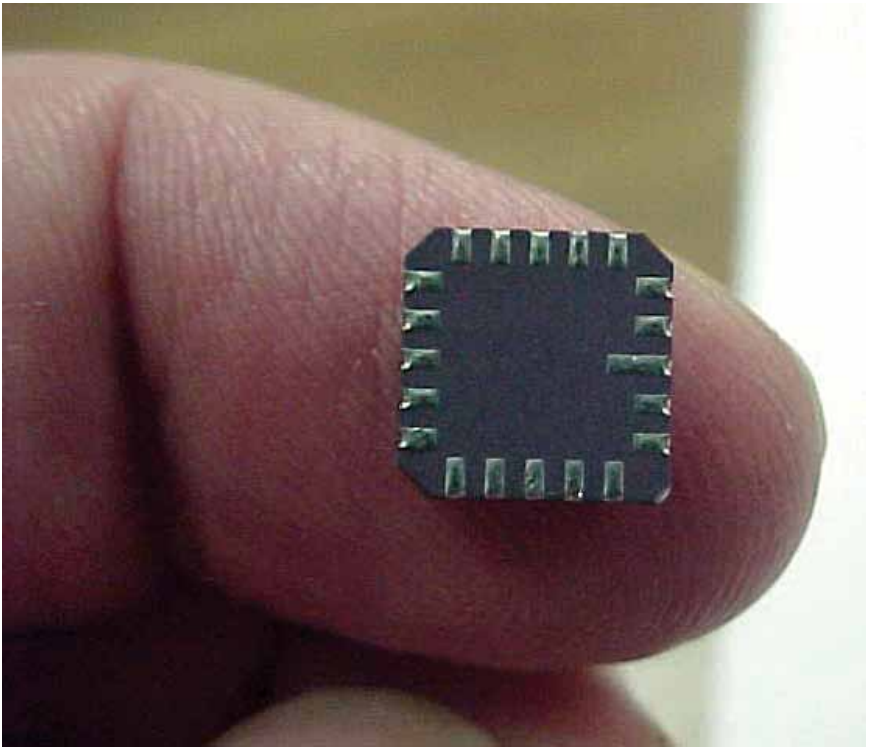
INTRODUCTION

U.S. Customs and Border Protection (CBP) is the primary federal agency responsible for securing America's borders. This includes the protection of intellectual property rights, which guards against the infringement of U.S. patents, copyrights, and trademarks. CBP intercepts counterfeit and pirated goods that harm the U.S. economy and threaten the security, health, and safety of Americans.

The agency employs a multi-layered, risk-based approach to enforce intellectual property rights at the border. This strategy, which mitigates the risk of fraudulent shipments coming into the country, relies on two key elements:

Enforcement

At the border, CBP is authorized to exclude, detain and/or seize imported merchandise that infringes federally registered and recorded trademarks



and copyrights and/or is covered by an exclusion order issued by the U.S. International Trade Commission. CBP publishes biannual statistics of intellectual property seizures at www.cbp.gov/ipr. This information includes the number of seizures, the domestic value, and the manufacturer's suggested retail price of the goods.

Partnerships

CBP collaborates with other federal agencies, foreign governments, and most importantly, the trade community to protect America's innovation and competitiveness. Enforcing intellectual property rights is a complex process and partnering with rights owners and industry organizations is critical to CBP's success. This guide outlines a number of ways in which businesses and rights owners can work with the government to increase enforcement of their intellectual property rights at the border.



PARTNERING WITH CBP TO PROTECT YOUR INTELLECTUAL PROPERTY RIGHTS

The flow of counterfeit and pirated goods is a global problem that requires vigorous collaboration between customs agencies and rights owners to ensure effective intellectual property enforcement at the border. Working with CBP provides many benefits for rights owners of patents, copyrights, and trademarks to ensure maximum intellectual property rights protection. The three steps you can take to maximize your relationship with CBP are e-Recordation, e-Allegations, and information sharing.

e-Recordation: Recording Intellectual Property with CBP

Trademarks and copyrights registered with the U.S. Patent and Trademark Office or U.S. Copyright Office can be recorded with CBP to maximize their protection at the border. The benefits of e-Recordation include:

- » Making intellectual property rights information available at the ports to help CBP personnel with infringement determinations.
- » Eliminating paper applications and the need for supporting documents.
- » Allowing rights owners to upload images of their protected rights.

<https://apps.cbp.gov/e-recordations/>

How to Record Your Trademark or Copyright with CBP:

- » Register your trademark with the U.S. Patent and Trademark Office at www.uspto.gov or your copyright with the U.S. Copyright Office at www.copyright.gov.
- » After a registration is issued, access the online e-Recordation application at <https://apps.cbp.gov/e-recordations/> and provide the following information:
 - The trademark or copyright registration number;
 - The name, complete business address, and citizenship of the rights owner;
 - The place(s) of manufacture;
 - The name and address of individuals authorized to use the trademark or licensed to use the copyright; and
 - The identity of a parent company or subsidiary authorized to use the trademark or licensed to use the copyright.

e-Allegations

Businesses and rights owners are encouraged to submit allegations of infringing shipments or conduct to CBP. CBP uses this information to target these activities and may refer cases for criminal prosecution.

If you have information about infringing goods being imported into the country, let CBP know. Information submitted through CBP's online reporting system, e-Allegations, is disseminated to the appropriate office or port of entry for investigation. This important information-sharing tool improves CBP's enforcement of your intellectual property rights at the border.

- » Submissions can be anonymous and may include photos and other documentation.
- » Issues that pose an immediate threat to public health and safety should also be reported to CBP's 1-800-BE-ALERT.



<https://apps.cbp.gov/eallegations/>



INFORMATION SHARING

CBP enforcement employs a risk-based targeting model to determine shipments most likely to contain infringing goods. Information shared with CBP helps identify infringing shipments while facilitating legitimate trade.

Counterfeit and pirated goods are becoming much more sophisticated, which means that it is also becoming much more difficult to distinguish legitimate goods from fakes. CBP reaches out to rights owners for assistance in making infringement determinations, but there are ways in which you can proactively help CBP with this process.

Product Identification Guides

These guides, produced by rights owners, help CBP make infringement determinations at the port. All guides submitted to CBP are placed on CBP's internal websites and linked to the e-Recordation system. This provides extensive information about recorded intellectual property rights to the field to assist with infringement determinations.

What should I include in my product identification guide?

An effective manual should be brief and should include the following:

- » Information about the company;
- » The intellectual property owned by the company;
- » Contact information;
- » Registration number;
- » Recordation number;
- » U.S. International Trade Commission investigation number. Product identification guides prepared in connection with exclusion orders enforced by CBP will not be placed on the agency's intranet. Rather, the information therein will be incorporated as appropriate in the field instructions that implement the order.
- » Physical characteristics of the product;
- » Photos of genuine and suspect versions of the goods;
- » Manufacturing information; and
- » An appropriate legal disclaimer, which can be found at www.cbp.gov/ipr.

Product Training Sessions

Many companies also provide product identification training to CBP personnel at ports of entry. This allows your company to interact face to face with the officers and import specialists who will actually inspect shipments and look for intellectual property rights infringements.

To conduct product identification training, direct your requests to the Assistant Port Director for Trade at each port of entry. A listing of field offices with contact information can be found at www.cbp.gov/ipr. Product identification training in respect of ITC exclusion orders must first be coordinated with the IPR and Restricted Merchandise Branch.

CONTACT US

A number of offices within CBP work together on intellectual property issues. All are available to work with you to protect your intellectual property rights.

We, at CBP, are here to serve you by securing America's borders to protect our nation and the U.S. economy. Our goal is to facilitate legitimate trade while enforcing our laws. If you have additional questions regarding intellectual property enforcement, please contact us in one of the following ways:

IPR Help Desk

CBP's IPR Help Desk is staffed on weekdays to answer questions on intellectual property rights enforcement. The IPR Help Desk provides the public, businesses and rights owners, CBP officers, and import specialists with information on intellectual property rights border enforcement procedures and receives allegations of intellectual property rights infringement. In addition, the IPR Help Desk assists owners of recorded intellectual property rights with developing product identification training materials. These materials help CBP officers at ports of entry identify infringed goods. Contact the IPR Help Desk by phone at 562-980-3119, ext. 252 or by email at ipr.helpdesk@dhs.gov.

IPR and Restricted Merchandise Branch

The IPR and Restricted Merchandise Branch oversees the intellectual property rights e-Recordation program and provides intellectual property infringement determinations and rulings. Additionally, the IPR and Restricted Merchandise Branch provides answers to legal questions about CBP's intellectual property enforcement procedures. Contact CBP intellectual property rights attorneys for help by phone at 202-325-0020 or by email at hqiprbranch@dhs.gov.

IPR Policy and Programs

The IPR Policy and Programs Division provides leadership and direction for CBP's intellectual property rights strategy, policy, and programs. The

division also coordinates with rights owners and other members of the trade community, federal agencies, and foreign governments on intellectual property issues. Contact the IPR Policy and Programs Division by phone at 202–863–6020 or by email at iprpolicyprograms@dhs.gov.

ADDITIONAL ONLINE RESOURCES

CBP has additional online resources to assist you with intellectual property rights enforcement.

Intellectual Property Rights Enforcement Directives

Three intellectual property rights directives are posted on the CBP website, www.cbp.gov/ipr, under IPR Legal Resources. These directives describe CBP’s enforcement of ITC exclusion orders, trademark and trade name protection, and detention and seizure authority for copyright and trademark violations.

An informed compliance publication entitled “CBP Enforcement of Intellectual Property Rights,” also under IPR Legal Resources, www.cbp.gov/ipr, provides guidelines for the trade community on intellectual property rights, trademark and copyright infringements, and importer remedies following the seizure of suspected goods.

Intellectual Property Rights Search (IPRS)

To see what trademarks, trade names and copyrights have been recorded with CBP, rights owners may use IPRS, a searchable database containing public versions of intellectual property rights e-Recordations (<http://iprs.cbp.gov>). Searches can be performed using individual and combinations of keywords and phrases, recordation numbers, and agency registration numbers.



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